



MEMORANDUM

To: PLANNING COMMISSION

Date: September 12, 2006

From: COMMUNITY DEVELOPMENT DEPARTMENT

Subject: DRAFT POLICY TO ESTABLISH SEPARATE DEVELOPMENT SCHEDULES FOR MONITORING OF MEASURE C PROJECTS AND AMENDING INTERIM DEADLINE DATES FOR MEASURE C PROJECTS

REQUEST

A request to adopt a policy establishing separate development schedules for residential projects awarded a building allotment under the Residential Development Control System. Also requested is administrative authority to extend interim deadline dates due to permit delays not the result of developer inaction.

RECOMMENDATION

Discussion. Staff will bring back a draft policy for approval.

BACKGROUND

Section 18.78.125 D. of the Residential Development Control System (RDCS) ordinance requires the annual residential building allotment to be issued no less than 16 months prior to the start of the first fiscal year in which the allotments must be used. Section 18.78.125 G. of the RDCS ordinance stipulates that a project must physically commence construction of the dwelling units by the end of the fiscal year of the residential building allotment. To comply with these statutory deadlines, the RDCS competition is completed prior to March 1 in the prior fiscal year and all residential projects are required to proceed according to an approved development schedule. This development schedule is incorporated into the project's Development Agreement as Exhibit "B." Approval of the Development Agreement is a legislative action requiring public hearings before the Planning Commission and City Council and adoption of an ordinance by the City Council. As the Commission is aware, from time to time, a developer may require an extension of time on one or more of the deadlines in the development schedule. To extend the deadlines, the developer must file an application to amend the Development Agreement and the

amendment also requires subsequent hearings before the Commission and Council and adoption of another ordinance. The filing fee to amend the Development Agreement is \$ 2,670. Rather than continuing to require developers to go through a legislative process to amend their development schedules, staff proposes that the development schedule with interim deadlines, be adopted by Planning Commission Resolution and any extensions of time be approved by Planning Commission or administratively by the Community Development Director. The Development Agreement would still have an Exhibit B Development Schedule with hard deadlines for Final Map Approval and Commencement of Construction date. Other deadlines, such as applications for subdivision map and site and architectural approvals, would continued to be monitored on a quarterly basis through the separate development schedule approved by the Commission.

The Development Agreement Schedule would contain the following deadlines:

- Final Map Submittal
- Building Permit Commencement of Construction

The Development Schedule approved by Resolution would contain the following deadlines:

- Subdivision and Zoning Applications
- Site Review Application
- Final Map Submittal
- Building Permit Submittal
- Building Permit
 1. Obtain Building Permits
 2. Commence Construction

Currently, the “Obtain Building Permits” deadline is September 30, nine month prior to the statutory deadline to commence construction. Staff proposes keeping this date in the development schedule approved by resolution, but allow administrative authority to extend this deadline and other deadlines with appropriate findings. As noted in the attached letter from Dick Oliver, the September 30 date is problematic because it is beyond the six month time limit to commence construction under the building code and it requires certain fees to be paid earlier than anticipated. Another solution would be to set a December deadline to obtain permits to run with the six month time limit of the building permit.

Any administrative extensions of time could be reported to the Planning Commission as an information item or placed on a consent calendar should the Commission wish to approved the amended development schedule. The exceptions to this process would be the hard deadlines for Final Map Submittal and Commencement of Construction contained in the Development Agreement Schedule.

Attachment: Letter from Richard Oliver dated June 23, 2006

DIVIDEND HOMES, INC.
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PLANNING DEPT.

AUG 10 2006

CITY OF MORGAN HILL

June 23, 2006

Joan Moore
Planning Department
City of Morgan Hill
17555 Peak Ave.
Morgan Hill, CA 95037

Re: Measure C – Soft Deadlines

Dear Joan:

As the housing market and sales have begun to slow down, we have encountered some resistance from our lenders to have construction starts get too far out ahead of sales. I have reviewed all of our Morgan Hill Projects, and because we have been able to consistently commence construction ahead of schedule, I believe we are in good shape for timely commencement of construction; however, we do need to be cautious in our construction starts during the next few years.

In reviewing all of our Development Agreements, there is a disconnect between the soft deadline for obtaining building permits and the hard deadline for commencement of construction. As an example, in both Alicante and Mission Ranch (both ongoing projects) the soft deadline for obtaining building permits is between 9 and 10 months prior to the hard deadline for commencement of construction.

At this time I see no problem with the hard deadline for commencement of construction; however, since permits expire within 6 months, because permits are expensive and because school fees now must be paid prior to building permit issuance there is a real financial burden for having to meet the soft dead lines for permit issuance so far in advance.

Is there an administrative way that the soft deadline for permit issuance, especially for ongoing projects, be either extended or not enforced with any penalty?

Please advise at your convenience.

Very truly yours,

DIVIDEND HOMES, INC.

By: Richard B. Oliver
President